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Supreme Court, U. S.
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In the Supreme Court of the United States

In re the Marriage of MILDRED M. MITCHELL,
Appellee,

vs.

ERIC G. MITCHELL,
Appellant.

Jurisdictional Statement

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In the Supreme Court of the United States

In re the Marriage of MILDRED M. MITCHELL,
Appellee,

VS.

ERIC G. MITCHELL,
Appellant.

Jurisdictional Statement

JURISDICTIONAL STATEMENT

No opinions were delivered.

The jurisdiction of this Court is invoked on the available appeal in:

The proceedings, Dissolution of Marriage, of USC, Title 28, Section 1257 (2) "By Appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States and the decision is in favor of its validity."

Rule 13 (1), Supreme Court Rules, provides "Not more than ninety days after the entry of the judgment appealed from . . .", which is the judgment of

the California Supreme Court,, Hearing denied, January 29, 1975. Appeal in the United States Supreme Court was filed on April 25, 1975, in the Superior Court of the State of California, Alameda County.

QUESTIONS

1. Why is secrecy practiced?

(a) Why was the Interlocutory Judgment of Dissolution of Marriage sent to me by the Court marked Confidential?

(b) Why was I denied access to the Probation Report, sealed by order of the Court, thereby denied the right to a fair, just and impartial trial, not being allowed to answer all accusations, offer rebuttal and cross examine? Appellant's Opening Brief, p. 1, item 4; Respondent's Brief, p. 7, Item III, p. 9 (?), p. 10 Item V; Appellant's Reply Brief, pp. 5, 11, 19, 20.

(c) Why are there secret meetings in judge's chambers between the judge and the lawyers with no report to the paying client? Clerk's Transcript p. 44; Reporter's Transcript pp. 6, 11-24, 26-28, 30-33.

(d) Why are the documents received from the Court stamped "Not to be Published in Official Reports"?

2. Why is fraud allowed?

(a) Why was I subjected to the traumatic experience resulting from my spouse vacating the bed during sexual intercourse? Appellant's Reply Brief, pp. 6, 18, 21, 22.

(b) Why wasn't the obvious fraud corrected? Appellant Reply Brief, p. 11, lines 7, 8, 9; Reporter's Transcript p. 36, line 8.

(c) Why was any attempt at reconciliation denied, nor further possibilities ever explored? Mefford's letter May 11, 1972, Appellant's Opening Brief, Exh. "D," p. 2, item B; Appellant's Reply Brief, pp. 3, 13, 14, 19; Respondent's Reply Brief p. 10.

(d) Why were the irreconcilable differences never listed to be explored and further denied by the Court? Appellant's Opening Brief, p. 2, item B, line 5; Appellant's Reply Brief, pp. 3, 11, 13, 19; Reporter's Transcript, p. 35, lines 10-25; Respondent's Brief, p. 10.

(e) What is the significance of the last statement in the Appellate Decision, Dec. 3, 1974, "The purported appeal from an order granting Respondent a new trial is dismissed as the record fails to indicate entry of such an order"? Reporter's Transcript, pp. 34-38; Clerk's Transcript, pp. 79-83e; Appellant's Opening Brief, p. 5; Appellant's Reply Brief, p.7; Cal Practice Rule 61:64 Exhibit A.

(f) Why is no qualifying reason given on the Order of Denial p. 83a; Clerk's Transcript? Appellant's Reply Brief p. 7; Appellant's Opening Brief p. 5.

(g) Why was traumatic damage attempted by initiating divorce proceedings at Christmas time and using my birthday, Mar. 30, to pursue the case? Clerk's Transcript pp. 2-6, 10-15, 17, 18, 38-56.

(h) Why was the veracity of the "Declarations to Support Motion to Advance Case for Trial" not challenged by my paid lawyer? Clerk's Transcript pp. 40, 41; Appellant's Opening Brief p. 4.

(i) Why were there the several judges hearing the case? Clerk's Transcript p. 83 d, item 11, pp. 10, 21, 42, 43, 44.

(j) What is the meaning of the wording "Another appointment was scheduled for them in late January . . ." in the letter, Superior Court, State of California, County of Alameda, Department of of Domestic Relations and Conciliation, Feb. 10, 1971, what date and why was there no followup? Reporter's Transcript, Exh. 4, p. 21, lines 5-8; Appellant's Opening Brief, pp. 1, 2; Appellant's Reply Brief, pp. 13, 14.

(k) Am I assigned Criminal Status as Defendant by the several documents? Clerk's Tran-

script, pp. 23, 25, 32, 36, 42, 44, 52, 59, 60, *67*, 78, 81-83a.

(l) Why wasn't the "Declaration of Eric G. Mitchel," June 28, 1971, filed by the Court? Clerk's Transcript, pp. 25-31, Alphabetical and Chronological Indices.

(m) Why is there the denial of a fair, just and impartial trial in the Appellate decision, Dec. 3, 1974, p. 2; *Nestle* vs. *City of Santa Monica* (1972), p. 925 (1)". . . most favorably to the prevailing party, . . . and disregards the contrary showing"? 6 Cal. 3d, 920, 925, 926.

(n) Why wasn't the full Teacher's Retirement Fund acknowledged? Clerk's Transcript, pp. 45-47, 74, 82, 83a; Respondent's Brief, p. 8.

(o) Why is the Court silent about the mother-in-law's bequest and the children's bank accounts? Appellant's Reply Brief, p. 16; Clerk's Transcript, p. 83e.

(p) Why does the profit motive prevail? Clerk's Transcript, p. 44, para. 1, my question, why was the lawyer I paid my money to, etc., infra, Appellant's Reply Brief, pp. 5, 15-20; also the question following. If fraud isn't being practiced why isn't my offer acceptable? Why isn't it the test of Equal Division of Community Property? Clerk's Transcript, p. 83d, item 13, 84; Appellant's Opening

Brief, p. 3; Appellant's Reply Brief, pp. 5, 15-20; Respondent's Brief.

(q) When the "magic date" is Dec. 1970 (R.T. p. 13, lines 15, 19) how come the post separation obligations are shown on Petitioner's Exh. 1, p. 2, lines 18-21, $3,388 incorporated by the court, not challenged by my paid lawyer (R.T. p. 11)? Clerk's Transcript, pp. 34, 51, 56, 71, 76, 83d item 15; Appellant's Opening Brief, p. 4, lines 21-24; Respondent's Brief, nil; Appellant's Reply Brief, pp. 8, 9, 15, 16.

3. Why is prejury acceptable?

Why is it that the several lies evidenced in Respondent's Brief on Appeal challenged in Appellant's Reply Brief, elicit no response? Respondent's Brief, all; Appellant's Reply Brief, all; Reporter's Transcript. Clerk's Transcript, pp. 38-41, pp. 45-47; Appellant's Opening Brief, p. 4 item E.

4. Why is theft countenanced?

Why are the several instances of theft disregarded? Appellant's Opening Brief, p. 5, item F, Exh. "S," Respondent's Brief, pp. 10, 11, item VI; Clerk's Transcript, pp. 45-47, 49, 51, 54, 56, 69, 71, 74, 76, 83d, 83e; Reporter's Transcript, p. 10, lines 7-26; p. 11, lines 3-10; p. 14, lines 9-17, 24-28; p. 15, lines 1-12; p. 25, lines 13-26; p. 32, lines 16-28; p. 33, lines 1-16; p. 36, lines 7-11; Appellant's Reply Brief, pp. 15, 16, 17.

5. Why do the courts practice obvious bias?

Where is a fair, just and impartial trial where there is obvious bias? Clerk's Transcript, pp. 17, 18, 25-30 filed (?), 44 para. 1, 45-47, 52a, 59, 67, 79, 80, 83a-83e; Appellant's Reply Brief, pp. 14, 17; Appellate Judgment, Dec. 3, 1974; California Supreme Court Decision, Jan. 29, 1975, without qualification.

6. (a) How can appeals be denied as a right separated from any Right to Equal Protection under the Law, the Right to Equal Justice by a fair, just and impartial trial? Reporter's Trancsript on Appeal (?) all; Clerk's Transcript, all; Appellant's Opening Brief; Respondent's Brief; Appellant's Reply Brief; Appellate Judgment Dec. 3, 1974; California Supreme Court, Hearing Denial, Jan. 29, 1975.

(b) Why is the rightful effect of an appeal negated by ". . . must be resolved in favor of the respondent. . . ." Appellate Judgment, Dec. 3, 1974, p. 2, line 2?

(c) Why is there a total denial of all my rights with no stated reasons? Appellant's Reply Brief, pp. 3, 6, 7, 13, 14, 17-22; Clerk's Transcript, pp. 17, 18, 33, 34, 44-47, 52a, 65-67, 78-80, 83a-83e, 84; Respondent's Brief.

(d) When does Equal Division in California Practice, J. L. Goddard, Rule 959, apply? Appel-

lant's Opening Brief, pp. 1, 3; Appellant's Reply Brief, p. 18; Clerk's Transcript, pp. 18, 65, 66, 83b-83e, 84; Recorder's Transcript, p. 27, lines 22-25; p. 33, line 8; p. 36, lines 7-16; Respondent's Brief, pp. 8, 9; Appellate Judgment, Dec. 3, 1974.

(e) Why am I denied my requirement that the homestead be sold to effect the equal division of community property? Appellant's Opening Brief, pp. 1, 3; Appellant's Reply Brief, pp. 10, 18, 19, 20; Clerk's Transcript, p. 84; Reporter's Transcript, pp. 27, 31, 36; Appellate Judgment, Dec. 3, 1974.

(f) Why are the courts not required to do their own work to obviate acrimony of one party against the other? Appellant's Opening Brief, p. 1, item 3; pp. 2, 3, item C; p. 4, item E; p. 5, item F; Respondent's Brief, pp. 2-9; Appellant's Reply Brief, pp. 1, 4-12, 14-20; Reporter's Transcript, pp. 4-15, 17, 18, 22-27, 30-33, 36; Clerk's Transcript, pp. 2, 8, 11, 13-15, 18, 26-29, 34, 44-52, 53-56, 65, 66, 68-76, 82, 83a-84.

(g) Why doesn't the judicial system provide a comprehensive review of all judicial proceedings to ensure justice? Clerk's Transcript; Appellant's Opening Brief; Respondent's Brief; Appellant's Reply Brief; Reporter's Transcript; Appellate Court Decision, Dec. 3, 1974; California Supreme Court Decision, Jan. 29, 1975.

(h) Why was the lawyer I paid my money to allowed to deny me my rights? Why wasn't my case file returned to me after the lawyer was out? Clerk's Transcript, pp. 23-29, 34, 44, 52a, 65, 66, 78, 83, 84. Reporter's Transcript, pp. 4-38; Appellant's Opening Brief, Exh. "S"; Appellant's Reply Brief, pp. 2-11, 13-22.

7. Why is Fascism inherent to the judicial system?

(a) Are my rights subordinate to the fascist scheme of the compelling motive to assign the children to the parent who is earning money such as to preclude the non-earner from receiving any government welfare? Clerk's Transcript, pp. 2, 10-13, 15, 28, 34, 48, 49, 52a-54, 65, 68-74, 83d; Reporter's Transcript, pp. 4, 5, 16, 18-21, 25-28, 31-33, 35-37; Appellant's Opening Brief, all; Respondent's Brief, all; Appellant's Reply Brief, all; Appellate Judgment, Dec. 3, 1974.

(b) Why are acts of criminality totally disregarded? Appellant's Opening Brief, p. 1, item 4A; p. 2, items B, C; p. 4, item E; p. 5, item F; Exh. "S"; Respondent's Brief, in toto; Appellant's Reply Brief, all; Clerk's Transcript, pp. 44, 49-51, 52a, 54-56, 66, 69-72, 74-76, 83c-83e; Petitioner's Exh. 1, p. 2, lines 18-21.

(c) Is the "Defendant" in a Civil Trial automatically considered to be a criminal and thereby

denied rights? Clerk's Transcript, all; especially pp. 23, 25, 32, 36, 42, 44, 52, 59, 60, *67*, 78, 81, 82, 83a; Appellant's Opening Brief; Respondent's Brief; Appellant's' Reply Brief; Appellate Judgment, Dec. 3, 1974; California Supreme Court, Hearing Denial, Jan. 29, 1975.

(d) What did the Courts originally use as Findings of Fact and Conclusions of Law to issue Final Judgment (Marriage) of Dissolution? Clerk's Transcript, p. 21.

(e) Why was no reasonable consideration given to the fact of my unemployment due to causes beyond my influence and control, unless there was interference? Reporter's Transcript, p. 16, lines 13-28; p. 17, lines 1-16; p. 21, lines 27, 28; p. 22, lines 1-14; p. 27, lines 10-18; p. 28, lines 2-4; p. 31, lines 5, 6, 21-25; p. 37, lines 23-26; Appellant's Opening Brief, p. 3, item D; Appellant's Reply Brief, pp. 6, 10-13, 20, 21; Respondent's Brief, pp. 6, 9; Clerk's Transcript, pp. 11, 15, 40, *47*.

(f) Was I denied employment through the offices of the past California State Legislator March K. Fong, Fifteenth Assembly District, since she served on both the Employment and Education Committees? Reporter's Transcript, p. 4, lines 16-18; p. 16, lines 13-27; pp. 25, 37; Clerk's Transcript, p. 47, line 5; Respondent's Brief, pp. 6, 9.

(g) Where is the requirement that any party in a civil trial be treated adversely? or punitively? The many questions posed comprise these inquiries.

(h) Why am I denied equal distribution of community assets in this divorce proceedings? Clerk's Transcript, pp. 2, 8, 11, 13-15, 18, 27-29, 40, 41, 44-47, 48-51, 53-56, 65-67, 68-72, 73-76, 82, 83b-83e; Appellant's Opening Brief, all; Respondent's Brief, pp. 1, 4-9; Appellant's Reply Brief, pp. 2, 4-10, 12, 14-18, 20, Recorder's Transcript, pp. 5-15, 17, 18, 22-28, 30-33, 36; Appellate Judgment, Dec. 3, 1974.

(i) Where is a copy of the Order Setting Aside the Default in the Clerk's Transcript, mentioned in Respondent's Brief, p. 3, line 16? Appellant's Reply Brief, p. 4, line 3.

8. How much miscarriage of justice is required to activate a judicial interest? The many questions posed comprise this inquiry.

CONCISE STATEMENT

Due to unemployment, underemployment, and a health problem of change of life, my wife unilaterally, without any discussion, filed for divorce at Christmas time, 1970, with the intent of using the Holiday Season to compound the inflicted trauma of vacating the bed during sexual intercourse. Questions 7 e, f, 2 a, g.

My files are incomplete because my paid lawyer did not return them. I was not served as stated, I received something after Christmas. We were supposed to go through some motions of conciliation which turned out to be a camauflage for the unilateral secret processing of legal documents including Default and Notice of Entry Judgment (Marriage). Questions 1, 1 a; 6 f, h; 2 c, d, j; 7 d.

On March 30, 1971, I wrote to the Judge of the Superior Court of California, County of Alameda, Oakland, California, to register the events that had happened to me. I recorded the fact that we had substantial community assets and that a fair and equitable distribution was being denied to me. (C.T. 17, 18.)

This was the first opportunity available to me to invoke the provisions of the Fourteenth Amendment, Section one of the U.S. Constitution: "Nor shall any state deprive any person of life, liberty or property without due process of law; nor deny any person within its jurisdiction the equal protection of the laws." Questions 1, 1 a, b, c, d; 2, 2 a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, q; 3; 4; 5; 6 a, b, c, d, e, f, g, h; 7, 7 a, b, c, d, e, f, g, h, i; 8.

I was forced to find a lawyer or lose everything. The attorney referral service nominated David W. Harris of Pleasanton, California, near to my address at that time. Documents were filed with the Court, the

Default was set aside without formal order, a Response Marriage was filed, incomplete and without advice, followed by the perjuries of Notice of Motion to Advance Case for Trial and Declaration in Support of Motion to Advance Case for Trial, followed by Order Advancing and Setting Time and Place of Trial. 'Questions 6 h, 2 h, 6 f, 6 c, 3, 7 i.

At the trial, "court and counsel confer in chambers without clerk or reporter present," this established the denial of a fair, just and impartial trial by secret conference, including my paid lawyer, and to label me criminal before the third judge. Questions 1, 1 c; 5; 6 f, g, h; 7, 7 c, g; 2 i, k.

Further, the Probation Report was read, accepted and sealed by the Court in secret, the denial of a right to a fair trial, the denial of a fair, just and impartial trial. Questions 1 b; 5; 6 c, g, h; 7, 7 b, c, g. Petitioner's Exhibits 1, 2, 3 and 4 are recorded but not available in Clerk's Transcript, nor Reporter's Transcript, to effect fraud, theft through perjury with the aid of the biased, secret courts with fascist compulsions to deny citizens of a right to a fair trial, the denial of a fair, just and impartial trial. Questions 2, 2 b, n, o, p, q; 5; 6 c, d, e, f, g, h; 7, 7 a, b, c, e, f, g, h;

Attempted fraud is evident in Mefford's letter of Apr. 5, 1972, to the Honorable Zook Sutton in discounting, for gain, discounting the Teacher's Pension Credits from $5,633 to $2,500. (C.T. 45-47) Questions 2, 2n, p, q; 3; 4; 5; 6 c, f, g; 7, 7 a, b, e, f, g, h.

The Reporter's Transcript provides a particular history of denial of a right to a fair trial and denial of a fair, just and impartial trial. Noteworthy is the machination to record no issue on which to provide for appeal or contention, a good example was my requirement that the house be sold to effect an equal distribution of community assets, pp. 22, 23, 25, 27, refer. Questions 2, 2p; 3; 4; 6 d, e, f, g, h; 7, 7 a, e, f, g, h.

The proliferation of documents of: property subject to distribution by the court (?), financial statements, interlocutory judgments of dissolution of marriage, memoranda of intended decision, finding of fact and conclusions of law, attest to the exercise of Appellee's counsel, acting in lieu of the Court, to deny the Appellant the right to a fair trial, a fair, just and impartial trial, and especially to deprive an equal distribution of community property, by fascist actions. Questions 2 k, n, o, p, q; 3; 4, 5; 6 c, d, e, f, g, h; 7, 7 a, b, c, d, e, f, g, h.

The second Notice of Entry of Judgment (Marriage) was recorded with no substantial benefit to the Appellant for having attempted to acquire the right to a fair trial, a fair, just and impartial trial, an equal distribution of community assets, the bias of the Courts dominated by the tacit approval of criminal acts of fraud, perjury and theft. Questions 1 a, b, c, d; 2, 2 a, b, c, d, g, h, i, j, k, l, n, o, p, q; 3; 4; 5; 6 c, d, e, f, g, h; 7, 7 a, b, c, e, f, g, h.

It became too obvious that a replacement was necessary for my lawyer and failing to find one on very limited funds, I undertook the task in propria personna and filed a Notice of Intention to Move for New Trial. Court hearing ensued with many condescending comments of denial and self incrimination of a family destruction for gain by Appellee's lawyer. Substantial aid was given to them by the Court Reporter in recording almost equal distribution of community assets to cloud an important issue by fraud (R.T. p. 36, line 8). The parting denial of the opposing lawyer, of unrelated comments to a request for a new trial, was; "Mr. Mefford, I would again simply restate, as I have upon previous appearances here, the petitioner has been now for quite some (time?) supporting this family alone and I think these are elements that are appropriately taken into account as well" (R.T. p. 37, lines 23-26). Does his audience, the judge, have a known fascist bias? The motion was denied. About this time the additional information on Teacher's Retirement Plan was requested and never supplied, a privilegium. Questions 6 h; 2 p, f, g, i, k, n, o, q; 2; 3; 4; 5; 6 c, d, e, f, g; 7, 7 a, b, c, e, f, g, h.

What is now recognized as an exercise in futility, frustration and fraud ensued by filing for an Appeal in the Court of Appeal, State of California. Even to the form required to deny a Right to Equal Justice. Cal. Practice 61:64 and supplement refer. Questions 2, 2 p, q; 3; 4; 5; 6 a, c, d, e, f, g, h; 7, 7 a, b, c, e, f, g, h.

The Appellant's Opening Brief was prepared and filed. No response has been presented regarding the conflict in the records between Exhibits E and F of the Superior Court.

This was the first appeal for "an equitable distribution of the community assets by sale of the principal items, the house, and others to deny the inequitable financial gain to the Respondent" available under the aforementioned Fourteenth Amendment, Section One, of the U.S. Constitution. Questions 1 b; 2, 2 c, d, e, f, h, j, p, q; 3; 4; 6 a, d, e, f, h; 7, 7 a, b, c, e, g, h.

Respondent's Brief was received as an exercise in error, fraud, perjury, theft and fascist denial of my right to a fair trial, a fair, just and impartial trial, the right to equal justice and equal protection under the law. Questions 1 b; 2, 2c, d, n, p, q; 3; 4; 6 a, c, d, e, f, g; 7, 7 a, b, c, e, f, g, h.

Appellant's Reply Brief was filed, countering all the opposing lawyer's denials, point by point in detail, including an analysis of the items and extent of the financial fraud. The combination of the conclusion and Exhibits A, B, C and D add materially to this concise statement. Questions 1 b; 2, 2 a, b, c, d, e, f, j, o, p, q; 3; 4; 5; 6 a, c, d, e, f, g, h; 7, 7 a, b, c, e, g, h, i.

On Oct. 29, 1974, opposing lawyer's letter Oct. 28, 1974, requesting an increase in child support payments to $125 each for two remaining eligible children was received in spite of pending Appeal decision.

The Appellate Judgment, Dec. 3, 1974, was received as a denial of a right to equal justice, equal protection under the law, right to a fair trial, a fair, just and impartial trial, of equal distribution of community assets, all without qualification but as an overbearing imposition. Questions 2, 2 m; 5; 6 a, b, d, e, g; 7, 7 a, c, g, h.

Appellant's Petition for Hearing was filed in California Supreme Court, on the assumption that there was a forum for acquisition of the right to equal justice, equal protection under the law, equal distribution of community assets, the right to a fair trial, and a fair, just and impartial trial. Questions 1 a, b, c, d; 2, 2 a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p, q; 3; 4; 5; 6 a, b, c, d, e, f, g, h; 7, 7 a, b, c, e, f, g, h, i.

The California Supreme Court Judgment was received, Hearing Denied with no qualification, without qualifying documents, notice, request, order or other. A new Notice of Entry of Judgment (Marriage) entered on Mar. 20, 1975, but not filed, was received on Mar. 22, 1975.

Followed by Final Judgment (Marriage) of Dissolution, dated and filed Mar. 18, 1975; Memorandum of Costs and Disbursements, dated Mar. 25, 1975: $152.61 for Reporter's Transcript; $45.00, printing, filing and serving; Respondent's Brief on Appeal; $107.61, not signed; Declaration of Service by Mail of Service of Copy; Memorandum of Costs and Dis-

bursements, dated Mar. 24, 1975; all received Mar. 25, 1975.

On April 1, 1975, Appellant handed three sets of Ex Parte Motion to Vacate Judgment, dated Mar. 28, 1975, fourteen pages, to the Court Clerk in Dept. 1, Superior Court of the State of California, Alameda County, Oakland, California, including the receipts for the Reporter's Transcrip, Respondent's Brief, p. 6, lines 18, 19 reads "Neither party requested, by pleading or at the trial, atorney's fees against the other" etc.

The three sets were returned, the original was noted "Denied" and scribbles, not dated and with no qualification of denial.

The set included a copy of Cal. Practice, Section 61:9, Supplement p. 4, 'The filing of an appeal divests the trial court of all jurisdiction," etc. Questions 2, 3, 4, 7, 8.

SUBSTANTIAL FEDERAL QUESTIONS

The many questions posed represent a substantial miscarriage of justice, the deprivation of community assets (property) and the denial of equal protection of the laws.

Appellant was denied access to the judicial process by machination, perjury, fraud, deception, by the expectation that conciliation proceedings were continu-

ing. During that same time the legal processes and documents were pursued by the Appellee and her legal counsel. These are some of the denial of equal protection of the laws by the actions of a lawyer, an office or the Court. Appellee and her legal counsel appear to have aspired to more lofty aggrandisement of the community assets as time progressed.

The identification of useful assets proliferated. The values of aspired assets were minimized and those divested were enlarged as evidenced by the unilaterally compiled Statement Concerning Community Property and Proposed Division of Community Property, the Petitioner's Exhibit No. 1 recorded in the Trial Proceedings, Exhibit B. Reporter's Transcript, the compilation was augmented by the substantial amount of $2,693 of post separation "obligations" and did not reflect, at all, the denial of the Teacher's Retirement Fund, difference of $3,133, being discounted by an officer of the Court from $5,633 to $2,500, and never being fully determined by the Courts (C.T. 82, refers). The denial of both $2,693 plus $3,133—total $5,826, exceeds the child support payments proposed of $5,485 by $341. A demonstration of fraud with profit.

The forms Petition Marriage (C.T. 2) and Response Marriage (C.T. 34) each specify "Support of children be awarded if need is found." Need has never been shown.

Contrariwise, Appellant has recorded his unemployment, underemployment, unemployability,) due to age and the policies of the Federal and State of California Governments. The record of sixty weeks work in five years includes the none receipt of $8,794.66 in pay and expenses owing from the Hannibal Construction Company, Oakland, California, further denied the Appellant by the State of California, Division of Labor Law Enforcement.

Appellee has a tenured position as a teacher, earning approximately $15,000 per annum.

The child support payment requirement—without need being shown went from $75 per month per child to $40 per month to the illegally contrived request of $125 per month for each of the two remaining children.

The denying effect of the Offices of the former Legislator, March K. Fong, on the Employment and Education Committees, appear to be the reason of my prolonged unemployment, used by Appellee's lawyer with strong certitude to write in a promissory note to equal the child support payments and being his allowance of the residue of community assets, in the many instances (C.T. 13, 15, 44, 49, 54, 69, 74).

These are the several exhibits of denial of the rights of the Fourteenth Amendment, Section One, of the U.S. Constitution, "nor shall any state deprive

any person of life, liberty or property without due process of the law; nor deny to any person within its jurisdiction the equal protection of the laws." Exhibit C. Emphasis on Equal this case, needs amplification.

With regard to the court proceedings, it is still a source of query that an entire divorce proceeding starting on Dec. 22, 1970, noting the arbitrary date of separation of Dec. 21 (C.T. p. 1), can proceed through a Notice of Entry of Judgment (Marriage) on Apr. 1, 1971, with no appearance of the Appellant and no finding of facts.

How about the "points and authorities" exhibited in the opposing lawyer's letter of Apr. 5, 1972 (C.T. 45-47) to discount an asset from $5,633 to $2,500 to deny Appellant of the difference of $3,133 in the calculations of the "equal" division of the community assets, crass fraud in an open court—without substantial objection by my paid lawyer.

Add to that the amount of "obligations" undertaken by Appellee after separation to boost the take and further deny Appellant of the additional $2,693. (Petitioner's Exhibit 1, p. 2, lines 18-21; C.T. 51, 56, 71, 76; Respondent's Brief, p. 6, lines 4, 5).

Compounding these is the total denial of the Superior Court of demonstrated objections with no minor concessions of tokenism nor audience of rightful requests.

These and others arouse inquisition of the volume of miscarriage of justice necessary to interest the judicial system.

The event of a trial entitled "Contested Dissolution" (C.T. 44) is a record of the substantial failings of the judicial system in this area at least.

Beginning with an exercise in Star Chamber procedures, running through a demonstration of mouthings for the record—compare my requirement that the residence be sold to effect the equal division of community property to the hearing on Objections to Proposed Findings of Fact and Conclusions of Law (C.T. 65, 66), court entitled "The Findings and Objection to Findings" (Reporter's Transcript pp. 30-33).

Full disclosure of all facts, figures together with verifying documentation has been provided by Appellant, errors excepted, not available from Appellee, or her legal counsel.

No meaningful discussion or negotiation ever took place to air problems, difficulties, "irreconcilable differences," child care, maintenance, development, planning and aspiration for their future.

Conciliation has long since passed the point of no return due to the magnitude of the volume of acrimony generated by the base reactions of the Appellee,

her legal counsel and a biased judge, chosen for his known attributes. As in all similar actions, the children reap the negative award of the failings of the parents, the judicial system, the State and Federal governments.

An appeal was filed with substantial optimism and hope, anticipating that the judicial system had the merit implied of "equal protection of the laws."

This is particularly denied, in contrast, by the several sections of the Code of Civil Procedure of the State of California, No. 475, Presumptions; 963, subsection 326, Presumptions; 943, subsection 2, Legislative Denial; the negative view of the State of California Constitution Art. 6 section 4½ and resting on the opinion of the fallible member of human kind. These have exaggerated impact in the sections of the popularly used Cal. Practice, Nos. 61-208, 209, 212-217, 220-223, 225.

When such requirements as "due process" are mandatory on the courts their denial demands askance of the courts' existence. Code of Civil Procedure section 909, Findings of Fact on Appeal, 632, subsection 85, Material Issues, Facts to be Found, 86, Ultimate Facts to be found, 81, Time for Making Findings, Exhibit D.

Controversial matters surfaced in the Appellate process over the Order (C.T. 84) resulting from the

unclear ambiguity evident on the forms of Cal. Practice 61:64 and supplement, Exhibit A, but patently clear in the exhibit presented "T" (C.T. 83a). Exhibit E. Reasoned, intelligence should prevail.

Respondent's Brief on Appeal is a sorry demonstration of the failings of the judicial system, assisted by the many individuals comprising the judiciary and their functionaries. Appeal to the Court of Appeals was filed Aug. 4, 1974.

The Appellate Judgment dated Dec. 3, 1974, Exhibit G, imprinted, "Not to be published in official reports," without qualification of denial, speaks for itself. Appellate Petition for Hearing was filed, Exhibit H.

That, followed by a printed card measuring 3¼ x 5½ from the California Supreme Court, Hearing Denied, Jan. 29, 1975, with no qualification for its existence, is too much. Exhibit I. The total, routine exercise of orderly procedures, attempted in the Ex Parte Motion to Vacate Judgment is submitted to accentuate complete disclosure, E & OE. Exhibit J (14 pages).

CONCLUSION

The relief sought is on equal division of all community assets with full documented disclosure of all assets based on a Court stipulated date of separation, unemcumbered by quasi judicial machinations. This relief to include the sale of the real property at 4408 Sargent Avenue, Castro Valley, California, to preclude the Appellee from unequal gain.

Further it is requested that corrective action be implemented and ccntinued to deny the undue influence of factors withholdng employment from any seeking gainful, rewarding and mutually beneficial employment.

Additionally, a review of the judicial system is warranted to ensure the delivery of the equal protection of the laws. A denial of secrecy is strongly urged to deny injustice.

Recourse or punitive measures are necessary to preclude abuse by any.

The element of financial gain is to be denied in all similar and same proceedings.

The mechanism for the courts should be instituted so that they will process all documentation, investigations, compilations, verification, to produce the quid pro quo for their existence.

The influences of political interference requires a source of relief.

The inability to approach a State Court through the written laws of availability, such as Miscarriage of Justice, needs thorough review and correction.

Dated: May 9, 1975.

Respectfully submitted,

ERIC G. MITCHELL
In propria personna